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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of:) Date: September 15, 2006

Frederick W. Ryan, Jr. et. al.   ) Attorney Docket No.: F-268

Serial No.: 09/938,326   ) Customer No.: 00919

Filed: August 23, 2001   ) Group Art Unit: 3627

Confirmation No.: 1636   ) Examiner: Joseph A. Fischetti

Title: SECURE TAX METER FOR COLLECTING SALES AND/OR USE TAXES ON
           SALES THAT ARE MADE VIA THE INTERNET AND/OR CATALOG

TRANSMITTAL OF CORRECTED APPEAL BRIEF (PATENT APPLICATION 37 CFR 1.192)

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Transmitted herewith is the **APPEAL BRIEF** in the above-identified patent application with respect to the

Notice of Appeal filed on April 17, 2006.

Pursuant to 37 CFR 41.20(b)(2), the fee for filing the Appeal Brief has been paid.

The Commissioner is hereby authorized to charge any additional fees which may be required to Deposit

Account No. **16-1885**.

A duplicate copy of this transmittal is enclosed for use in charging the Deposit Account.

Respectfully submitted,

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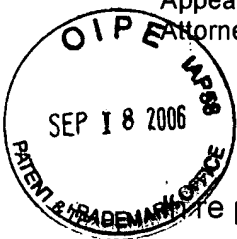
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Title: **SECURE TAX METER FOR COLLECTING SALES AND/OR USE TAXES ON SALES THAT ARE MADE VIA THE INTERNET AND/OR CATALOG**

CORRECTED APPELLANT'S BRIEF

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This brief is in furtherance of the Notice of Appeal filed in this case on April 17, 2006, and the August 24, 2006, Notification of Non-Compliant Appeal Brief (37 CFR § 41.37).

TABLE OF CONTENTS

This brief contains these items under the following headings and in the order set forth below:

I.   **REAL PARTY IN INTEREST**

Pitney Bowes Inc. is the real party in interest by way of assignment from the Appellant.

II.   **RELATED APPEALS AND INTERFERENCES**

A. U.S. Patent Application Serial No.: 09/634,041 entitled "A METHOD FOR OBTAINING SECURE RECEIPTS SALES AND/OR USE TAXES ON SALES THAT ARE MADE VIA THE INTERNET AND/OR CATALOG" was decided by the Board of Appeals on June 10, 2005.

B. U.S. Patent Application Serial No.: 09/634,040 entitled "A METHOD FOR OBTAINING SECURE RECEIPTS FOR SALES AND/OR USE TAXES THAT ARE MADE VIA THE INTERNET AND/OR CATALOG" is currently being appealed to the Board of Appeals.

III.   **STATUS OF CLAIMS**

A) Claims 1 – 48 are in the application.

B) Claims 1-39, and 44-48 are withdrawn.

C) Claims 40-43 are rejected.

D) Claims 40-43 are on appeal.

IV.   **STATUS OF AMENDMENTS**

No Amendment has been entered subsequent to the January 26, 2006, Final Rejection.

V.   SUMMARY OF CLAIMED SUBJECT MATTER

Generally, a jurisdiction has the right or power to tax a commercial transaction if the commercial transaction takes place within the taxing jurisdiction, i.e., goods subject to a sales tax are sold by a store that is physically located within the taxing jurisdiction. Goods subject to a use tax are goods that are used, consumed or stored in the taxing jurisdiction. The taxing jurisdictions usually have no difficulty collecting sales taxes on sales in their taxing jurisdiction made by merchants physically located in the taxing jurisdiction. A buyer is responsible for the payment of the tax if the seller does not collect the tax. However, the taxing jurisdictions usually find it difficult to collect taxes on the sale and/or use of goods and/or services that are made in a different jurisdiction and delivered and/or performed in the taxing jurisdiction. There has been a tremendous increase in the number of commercial transactions that are or may be subject to a sales and/or use tax that are taking place over the Internet or from catalogs. The taxing jurisdictions are having difficulty collecting sales and/or use taxes that are made via the Internet and catalogs.

This invention overcomes taxing jurisdictions concerns that sellers may modify their tax compliance systems and defraud the taxing jurisdictions. The claimed invention provides a method that removes sellers' objections to some existing system by enabling sellers to control all aspects of their transaction and customer data, while still providing taxing jurisdictions with the assurance that sales and use taxes are being accounted for and calculated properly. This is accomplished by placing the tax calculation and accounting functions at the seller site, executed by a secure tax meter, i.e., a tamper-resistant computing environment.

The secure tax meter also achieves the taxing jurisdictions' goals of increased assurance of correct tax calculation, increased retailer compliance and decreased taxing jurisdiction audit burden. The placing of a secure tax meter at a seller's site and having the secure tax meter communicate directly with each taxing jurisdiction effectively eliminates the agent data center operation.

The secure tax meter calculates the tax rate for each transaction, securely maintains a record of all transactions, securely maintains an aggregate of all transactions for each tax jurisdiction, enables the taxing jurisdictions to remotely audit detailed transaction records, provides the taxing jurisdictions a mechanism to update tax rate tables, enables the taxing jurisdictions to communicate directly with the sellers and the sellers' financial institutions. Thus, the secure tax meter performs the sales tax administrative functions for the seller, relieving the seller of as much of the burden of compliance as possible.

The secure tax meter may also be used to detect improper or fraudulent behavior by the seller. For instance, the secure tax meter may be used to detect partial reporting of taxes to the taxing jurisdiction for seller's sales and/or the failure to report seller's sales to the taxing jurisdiction. The secure tax meter also may be able to obtain evidence of improper seller conduct in the reporting and/or collecting of sales and/or use taxes.

Claim 40 is the only independent claim in this patent application. Claim 40 relates to a method for collecting sales and/or use taxes on remote sales. The method includes the following steps:

a) collecting by a seller (12) information regarding remote purchases made by a buyer (11) and storing said information in a secure tax meter (13), said secure tax meter comprising:

a secure coprocessor (21) coupled to a host computer (20),

a secure tax information database (23)

a secure tax database (24), and

said secure coprocessor (21) comprising a non-volatile memory (22);

b) operating said secure tax meter (13) for securely calculating the correct taxing jurisdictions (17a, 17b ... 17n) sales and/or use tax to be paid by said buyer (11) for remote sales;

c) collecting by said seller (12) from said buyer (11) the correct sales and/or use tax;

d) operating said secure tax meter (13) for transmitting to the correct taxing

jurisdiction (17a, 17b ...17n) the aggregate totals of sales and/or use tax

transactions; and

f) said taxing jurisdiction (17a, 17b ...17n) interrogating said secure processor

(21) to ensure the integrity thereof,

g) determining whether said secure processor (21) is functioning properly, and

h) shutting down said tax meter (13) at the instruction of said taxing jurisdiction

(17a, 17b ...17n) if it is determined that said secure coprocessor (13) is not

functioning properly.

Appellant's invention is shown in Figs. 1 and 2, line 2 of page 6 to line 20 of page

10 of Appellants' Patent Application.

FIG. 1
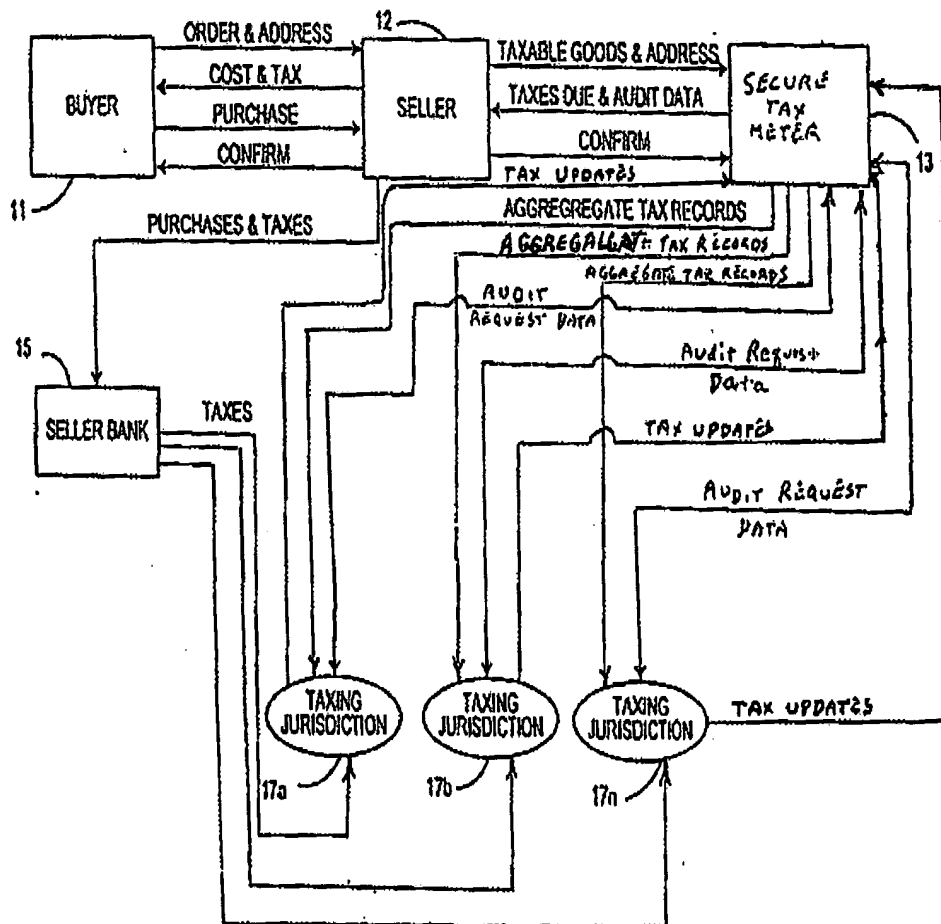
Referring now to the drawings in detail, and more particularly to Fig. 1, the reference character 11 represents a plurality of buyers who purchase goods and/or services from a plurality of sellers 12. The remote sale may be via the Internet and/or catalog, etc. The information exchanged between buyer 11 and seller 12 and seller 12 and buyer 11 may be the particulars of the sales order and/or service; the location of the buyer; the cost of the sales order and/or service, including any sales or use tax that may be due; confirmation of the order by buyer 11; and acceptance of the order by seller 12. It will be obvious to one skilled in the art that buyer 11 and seller 12 may transmit other information, i.e., more specific location information, buyer exemption information, buyer unique identifier, buyer identification number, etc. Seller 12 may transmit the location of buyer 11, the items and/or services to be purchased by buyer 11, the classification of the items and/or services to be purchased by buyer 11, and the cost of the items and/or services purchased by buyer 11 to Secure Tax Meter 13 ("Meter 13").

Each seller 12 will have a Meter 13 located at their site. The seller's site may be a physical site or be hosted by an Internet service provider or an e-commerce service provider such as an Internet mall. Seller 12 receives from Meter 13 the amount of taxes due on the sale. Meter 13 has been certified by the taxing jurisdictions and must comply with the taxing jurisdiction's rules and regulations to maintain its certification. Meter 13 maintains a log of all sales and/or use tax transactions. Meter 13 transmits the aggregate tax records, i.e., a log of all sales and/or use tax transactions to taxing jurisdictions 17a, 17b...17n. Jurisdictions 17a,17b...17n transmit updates of sales and use tax tables to Meter 13. Meter 13 calculates and logs the tax and transmits the amount of taxes that are due to seller 12. Meter 13 also verifies the integrity of its tax tables and digitally signs all tax transactions. The tax calculation performed by meter 13 may be executed by the sales tax software sold by Taxware International, Inc. of 27 Congress Street, Salem, MA 01970, or the sales tax software sold by Vertex, Inc., of 1041 Old Cassat Road, Berwyn, Pennsylvania 19312, or other similar software and/or system. Meter 13 has been certified by the taxing jurisdictions and must comply with the taxing jurisdiction's rules and regulations to maintain its certification.

Periodically, seller 12 will transmit the monies it receives from buyer 11 to seller bank 15. Bank 15 will periodically send the taxes that are due to taxing jurisdictions

17a, 17b,...n. Meter 13 will provide encrypted audit data to each taxing jurisdiction 17a, 17b, 17n upon a request from taxing jurisdictions 17a, 17b,...17n.

Meter 13 will set up tax record databases for each seller 12 in each taxing jurisdiction 17a, 17b,...17n. Meter 13 will aggregate the payments that are due to taxing jurisdictions 17a, 17b,...17n, prepare documentation, (tax returns) for taxing jurisdictions 17a, 17b,...17n submit documentation to taxing jurisdictions 17a, 17b,...17n, submit tax revenues to jurisdictions 17a, 17b,...17n and enable taxing jurisdictions 17a, 17b,...17n to remotely audit buyer 11. Meter 13 can restrict taxing jurisdictions' 17a, 17b,...17n access to data while still enabling complete disclosure of information in the support of tax audits. This is accomplished by supplying aggregate tax information to each taxing jurisdictions 17a, 17b,...17n.

Taxing jurisdictions 17a, 17b,...17n are restricted from viewing each other's data in tax data database 24 (Fig. 2). Taxing jurisdictions 17a, 17b,...17n could audit seller tax record databases and tax return information based upon seller ID number. A seller's identity would be disclosed to a taxing jurisdiction 17a, 17b,...17n only if there were sufficient suspicion of fraud based upon audit data. The foregoing may also be done for buyers 11.

A seller 12 may view the contents of his/her seller tax record database 24 (Fig. 2). A seller tax record database 24 contains an aggregate record of transactions the seller has conducted, a record of all tax returns filed by the seller 12, a record of all financial transactions with the seller 12, and a record of audits performed by taxing jurisdictions 17a, 17b,...17n. Seller tax record database 24 may also contain a record of all transactions the seller has conducted.

Meter 13 is certified by taxing jurisdictions 17a, 17b,...17n. Meter 13 determines the total amount of taxes due to each taxing jurisdiction; initiates tax payment (either directly or by instructing the seller) to taxing jurisdictions 17a, 17b,...17n; and files tax returns with taxing jurisdictions 17a, 17b,...17n on behalf of seller 12. CSP 14 Meter 13 also allows taxing jurisdictions 17a, 17b,...17n to audit seller 12.
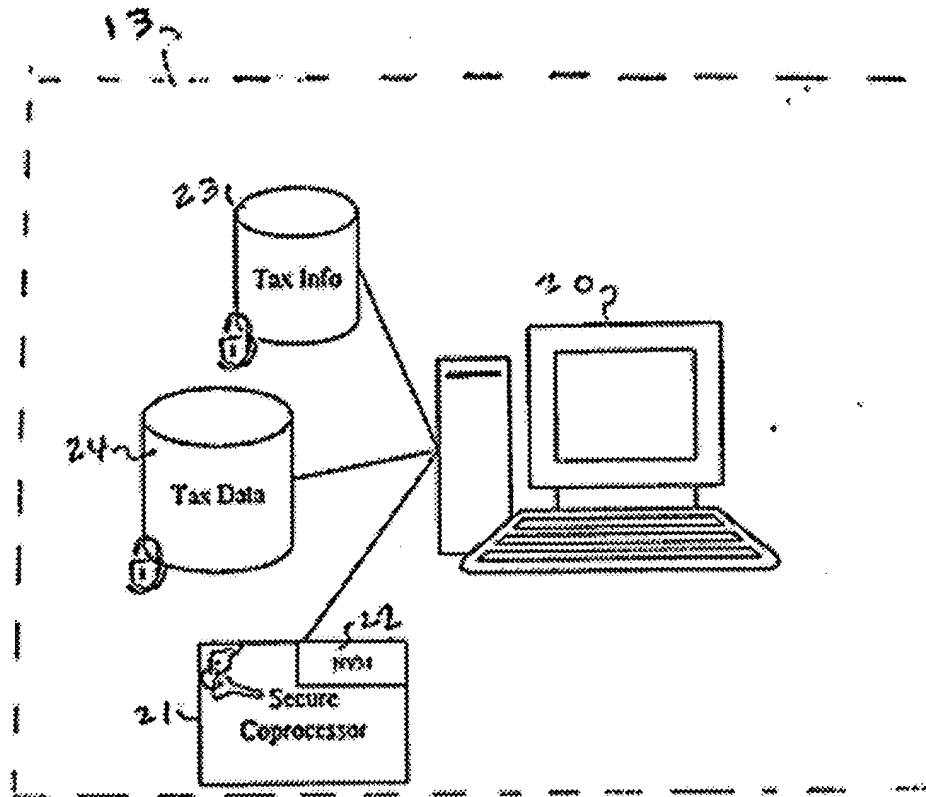
Figure 2.

Fig. 2 is a drawing of a secure tax meter 13 ("Meter 13"). Meter 13 comprises a host computer 20 that is coupled to a secure coprocessor 21 containing a non-volatile memory 22; a secure tax information database 23; and a secure tax database 24. Computer 20 functions as a communication interface between databases 23 and 24, secure coprocessor 21, and other seller systems. Secure coprocessor 21, preferably, is responsible for the security and accuracy of tax calculation and accounting. Secure coprocessor 21 is a tamper-resistant module, i.e., the IBM 4758 Cryptocard, in order to ensure that the seller is not able to tamper with the tax calculation and accounting functions. Secure coprocessor 21 contains Non-Volatile Memory (NVM) 22 that is used to store security parameters, configuration data and aggregate tax totals. The security parameters include such items as secure coprocessor serial number, expiration date of the secure coprocessor, cryptographic keys, etc. The configuration data

includes such items as tax jurisdiction liability, taxing jurisdiction bank account numbers, seller identification number, seller unique identifier, frequency of contact with CSP, etc. Aggregate tax totals are maintained in secure coprocessor 21 for each taxing jurisdiction. Each aggregate total represents all the taxes due to all the tax jurisdictions within a particular state. These totals are maintained within secure coprocessor 21 to protect them from unauthorized modification. The total tax collected for each jurisdiction may be maintained optionally in secure coprocessor 21; however, this data also may be extracted from the tax data database 24.

The tax information database 23 contains information necessary to calculate taxes due on a sale. Tax information database 23 contains item classifications, tax rates, tax-exempt information, tax regulations, etc. Tax information database 23 must be protected against modification to ensure that a seller does not change tax rates, exemption information, tax rules and the like. This protection is accomplished by having taxing jurisdictions 17a, 17b,...17n (Fig. 1) digitally sign or otherwise cryptographically protect the database (for example, using the Digital Signature Algorithm (DSA) described in FIPS PUB 186, dated January 15, 1977, and published by the United States Department Of Commerce, National Bureau of Standards, herein incorporated by reference).

The secure coprocessor 21 verifies the digital signature of the tax information database 23 (or portions of tax information database 23) prior to processing transactions to ensure that tax information database 23 has not been modified.

Tax data database 24 contains a log of all transactions processed by secure coprocessor 21. Each entry in this log is digitally signed by secure coprocessor 21 to ensure that any modification of a log entry is detectable. The log also may be encrypted to protect the privacy of the information (e.g., seller addresses and individual transactions) from computer operators and administrators (this might be particularly useful if a seller's e-commerce system has been outsourced and is being operated by a third party). However, the seller may desire to analyze or process the data contained in the log (e.g., to determine the most effective means of advertising in a given area based upon the total amount of business in that area). The system allows this type of

processing, since any attempted modification of tax data database 24 is detectable using a combination of digital signature verification and data analysis (using the aggregate totals or other data stored in secure coprocessor 21 to determine if log entries have been deleted). It should also be noted that while a taxing jurisdiction may have the right to audit tax data in tax data database 24, there is no need to provide the taxing jurisdictions 17a, 17b,...17n with details of every transaction (as will hereinafter be described). As a result, meter 13 allows sellers to maintain control of their sensitive data.

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

A. Claims 40 and 43 have been rejected by the Examiner under 35 USC § 103(a) as being unpatentable over Golden et. al. (U.S. Patent No. 5,774,872) in view of Winn et. al. (U.S. Patent No. 4,970,655).

B. Claims 41 and 42 have been rejected by the Examiner under 35 USC § 103(a) as being unpatentable over Golden et. al. (U.S. Patent No. 5,774,872) in view of Winn et. al. (U.S. Patent No. 4,970,655) and further in view of Hurta (US Patent No. 6,725,202).

VII. ARGUMENTS

A. **Claims 40 and 43 have been rejected by the Examiner under 35 USC § 103(a) as being unpatentable over Golden et. al. (U.S. Patent No. 5,774,872) in view of Winn et. al. (U.S. Patent No. 4,970,655).**

Golden discloses the following in col 6, lines 4-28:

> "The system 10 includes a central computer 12 which includes a
> processor and an associated data storage facility. Since the central
> computer 12 must process and analyze a great deal of data, it
> typically will be a main frame computer, although a network of
> smaller computers could also be utilized. The data storage facilities
> associated with the central computer 12 are correspondingly large,
> and may include any type of conventional data storage, such as

semiconductor memory, magnetic memory, optical and magneto-
optical storage, etc., as well as any combinations thereof.

The system 10 further includes a plurality of point of sale
terminals 16 disposed at a plurality of remote vendor locations 14.
Although FIG. 1 depicts only one such remote vendor location 14
and one associated point of sale terminal 16, it is to be understood
that the system of the present invention finds particular utility when
at least one point of sale terminal 16 is disposed at every remote
vendor location 14 (such as stores, restaurants, sporting facilities,
etc.) contained within the jurisdiction of the state taxing authority. In
some cases, such as, for example, a large department store, a
single remote vendor location 14 may require a large number of
point of sale terminals 16, while in other cases, such as a
convenience store, a single terminal 16 may be sufficient."

Golden does not disclose or anticipate a secure compressor.

Applicant defines a secure compressor 21 in line 20 of page 8 to line 12 of page
9 which read as follows:

"Secure coprocessor 21, preferably, is responsible for the security
and accuracy of tax calculation and accounting. Secure
coprocessor 21 is a tamper-resistant module, i.e., the IBM 4758
Cryptocard, in order to ensure that the seller is not able to tamper
with the tax calculation and accounting functions. Secure
coprocessor 21 contains Non-Volatile Memory (NVM) 22 that is
used to store security parameters, configuration data and
aggregate tax totals. The security parameters include such items as
secure coprocessor serial number, expiration date of the secure
coprocessor, cryptographic keys, etc. The configuration data
includes such items as tax jurisdiction liability, taxing jurisdiction
bank account numbers, seller identification number, seller unique
identifier, frequency of contact with CSP, etc. Aggregate tax totals

> are maintained in secure coprocessor 21 for each taxing
> jurisdiction. Each aggregate total represents all the taxes due to all
> the tax jurisdictions within a particular state. These totals are
> maintained within secure coprocessor 21 to protect them from
> unauthorized modification. The total tax collected for each
> jurisdiction may be maintained optionally in secure coprocessor 21;
> however, this data also may be extracted from the tax data
> database 24."

Thus, Golden does not disclose or anticipate a tamper resistant module.

The Examiner stated the following in page 3 of the January 26, 2006, Final Rejection.

> "However, there is no disclosure in Golden et al of said taxing
> jurisdiction interrogating said secure processor to ensure the
> integrity thereof, g) determining whether said secure processor is
> functioning properly, and h) shutting down said tax meter at the
> instruction of said taxing jurisdiction if it is determined that said
> secure coprocessor is not functioning properly.
> However, Winn et al. discloses a POS terminal 14 which is
> connected to a state authority interrogating said secure processor
> to ensure the integrity thereof, g) determining whether said secure
> processor is functioning properly (See col. 8 lines 51- 68). The
> interrogating computer while not shutting down the POS, does
> cause the POS to send a notification call to an appropriate authority
> that a problem exists. It is deemed an obvious variant of call
> notification of a problem to shut something off. In addition, official
> notice is taken of the practice of shutting a device off e.g. "out of
> order" if the device is malfunctioning. The motivation being a
> continued monitored device."

Winn discloses the following in col 8 lines 51-60:

> "A remote maintenance and monitoring capability is also provided by remote monitor mode 116, which is available at all times while the main program is running to allow a remote computer to call up the system via the telephone line connected to the point of sale modem, allowing the remote computer and local system to exchange information at any time. This provides a remote access to status files, data and program areas, allowing supervisory and maintenance personnel to investigate any system faults, for example, and allowing monitoring to determine when the system needs re-stocking with receipt forms, for example Access to the tiles and program areas will be limited by passwords to provide multi-tiered security in this mode. The remote monitor mode also allows the system to place an outgoing call to notify the appropriate authority should inventory be low or some other type of problem be detected during self testing."

Winn is providing remote access to status bites to allow maintenance personnel to investigate any system faults, for example re-stocking the system with forms. Winn does not disclose or anticipate integrating the secure processor to insure the integrity of the processing; i.e., it has not been tampered with, and is functioning properly.

Thus, steps f, g, h, of claim 40 are not disclosed or anticipated by Golden and/or Winn namely,

f) said taxing jurisdiction interrogating said secure processor to ensure the integrity thereof,

g) determining whether said secure processor is functioning properly, and

h) shutting down said tax meter at the instruction of said taxing jurisdiction if it is determined that said secure coprocessor is not functioning properly.

Notwithstanding the foregoing, in rejecting a claim under 35 U.S.C. §103, the Examiner is charged with the initial burden for providing a factual basis to support the obviousness conclusion. *In re Warner,* 379 F.2d 1011, 154 USPQ 173 (CCPA 1967); *in re Lunsford,* 375 F.2d 385, 148 USPQ 721 (CCPA 1966); *in re Freed*, 425 F.2d

785, 165 USPQ 570 (CCPA 1970). The Examiner is also required to explain <u>how</u> and <u>why</u> one having ordinary skill in the art would have been <u>led</u> to modify an applied reference and/or combine applied references to arrive at the claimed invention. *In re Ochiai*, 37 USPQ2d 1127 (Fed. Cir. 1995); **in re Deuel**, *51 F.3d 1552, 34 USPQ 1210 (Fed. Cir. 1995); in re Fritch*, 972 F.2d 1260, 23 USPQ 1780 (Fed. Cir. 1992); *Uniroyal, Inc. v. Rudkin-Wiley Corp.*, 837 F.2d 1044, 5 USPQ2d 1434 (Fed. Cir. 1988). In establishing the requisite motivation, it has been consistently held that <u>both the suggestion and reasonable expectation of success must stem from the prior art itself, as a whole.</u> *In re Ochiai*, <u>supra</u>; in re Vaeck, *947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991); in re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); *in re Dow Chemical Co.*, 837 F.2d 469, 5 USPQ2d 1529 (Fed. Cir. 1988).

B.   Claims 41 and 42 have been rejected by the Examiner under 35 USC § 103(a) as being unpatentable over Golden et. al. (U.S. Patent No. 5,774,872) in view of Winn et. al. (U.S. Patent No. 4,970,655) and further in view of Hurta (US Patent No. 6,725,202).

The Examiner stated the following in page 4 of the January 26, 2006, Final Rejection.

> "Golden et at. disclose the subject matter of claims 41 as set forth
> above. However they do not disclose an antifraud step whereby
> transmitting from the seller to the purchasing taxing jurisdiction a
> log of specific sales and use tax transactions. However, Hurta et al.
> do disclose an antifraud checking step whereby the paying tax
> customer (transponder owner) submits his transponder payment
> log to the authority and the authority analyses these against its
> receipts numbers see cot. 7 lines 33-40. It would be obvious to
> modify the method of Golden et alto include the log check feature of
> Golden et at which obviously must include some given check such
> as the red tagged purchase by an identifiable entity the motivation

being the prevention of fraud. The motivation being the checks

result in increased revenue stream for the state."

Hurta discloses the following in col 7 lines 33-40:

"One application of this transaction number data would be to submit

all or some transactions from the interrogator to a host or

processing unit for analysis. By this method the processing unit can

compile the submitted transponder responses along with their

associated transaction numbers or receipt numbers. In the event of

a double inclusion of a certain number or in the event of a certain

receipt number being skipped, it is likely that an error or a fraud has

been committed."

Neither Golden, Winn or Hurta taken separately or together disclose or anticipate giving a seller notice that a taxing jurisdiction is studying its log of all sales and use tax transactions.

Notwithstanding the foregoing, in rejecting a claim under 35 U.S.C. §103, the Examiner is charged with the initial burden for providing a <u>factual basis</u> to support the obviousness conclusion. *In re Warner,* 379 F.2d 1011, 154 USPQ 173 (CCPA 1967); *in re Lunsford,* 375 F.2d 385, 148 USPQ 721 (CCPA 1966); *in re Freed*, 425 F.2d 785, 165 USPQ 570 (CCPA 1970). The Examiner is also required to explain <u>how</u> and <u>why</u> one having ordinary skill in the art would have been <u>led</u> to modify an applied reference and/or combine applied references to arrive at the claimed invention. *In re Ochiai*, 37 USPQ2d 1127 (Fed. Cir. 1995); **in re Deuel,** *51 F.3d 1552, 34 USPQ 1210 (Fed. Cir. 1995); in re Fritch*, 972 F.2d 1260, 23 USPQ 1780 (Fed. Cir. 1992); *Uniroyal, Inc. v. Rudkin-Wiley Corp.*, 837 F.2d 1044, 5 USPQ2d 1434 (Fed. Cir. 1988). In establishing the requisite motivation, it has been consistently held that <u>both the suggestion and reasonable expectation of success must stem from the prior art itself, as a whole.</u> *In re Ochiai,* supra; **in re Vaeck,** *947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991); in re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); *in re Dow Chemical Co.*, 837 F.2d 469, 5 USPQ2d 1529 (Fed. Cir. 1988).

C.   Claim 43 has been rejected by the Examiner under 35 USC §103(a) under 35 U.S.C. §103(a) as being anticipated by Francisco (U.S. Patent No. 5,875,433).

Claim 43 has the following step added to the method claimed in claim 36 wherein the buyer information segmented by the agent may be accessed by an unique identifier.

In addition to the arguments made hereinabove, the act of permitting the buyer information segmented by the agent to be accessed by an unique identifier is not disclosed or anticipated by Francisco.

D.   Claim 50 has been rejected by the Examiner under 35 USC §103(a) under 35 U.S.C. §103(a) as being anticipated by Francisco (U.S. Patent No. 5,875,433).

Claim 50 has the following step added to the method claimed in claim 36 wherein the buyer information segmented by the agent may be accessed by an unique identifier.

In addition to the arguments made above Section B, the act of permitting the buyer information segmented by the agent to be accessed by an unique identifier is not disclosed or anticipated by Francisco.

E.   Claim 51 has been rejected by the Examiner under 35 USC §103(a) under 35 U.S.C. §103(a) as being anticipated by Francisco (U.S. Patent No. 5,875,433).

Claim 51 has the following step added to the method claimed in claim 36 wherein the taxing jurisdictions pay the agent for services rendered by the agent.
In addition to the arguments made above Section B, the act of permitting taxing jurisdictions pay the agent for services rendered by the agent is not disclosed or anticipated by Francisco.

Appellants respectfully submit that appealed claims 40-43 in this application are patentable. It is requested that the Board of Appeal overrule the Examiner and direct allowance of the rejected claims.

Respectfully submitted,

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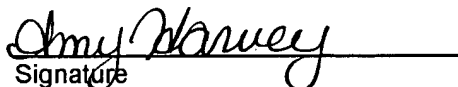P.O. Box 3000
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Amy Harvey
Name of Rep.

Amy Harvey
Signature

September 15, 2006
Date

VIII CLAIMS APPENDIX

40. A method for collecting sales and/or use taxes on remote sales, said method includes the steps of:

    a) collecting by a seller information regarding remote purchases made by a buyer and storing said information in a secure tax meter, said secure tax meter comprising:

    a secure coprocessor coupled to a host computer,

    a secure tax information database

    a secure tax database, and

    said secure coprocessor comprising a non-volatile memory;

    b) operating said secure tax meter for securely calculating the correct taxing jurisdictions sales and/or use tax to be paid by said buyer for remote sales;

    c) collecting by said seller from said buyer the correct sales and/or use tax;

    d) operating said secure tax meter for transmitting to the correct taxing jurisdiction the aggregate totals of sales and/or use tax transactions; and

    f) said taxing jurisdiction interrogating said secure processor to ensure the integrity thereof,

    g) determining whether said secure processor is functioning properly, and

    h) shutting down said tax meter at the instruction of said taxing jurisdiction if it is determined that said secure coprocessor is not functioning properly.

41. The method claimed in claim 40, further including the step of: transmitting from the seller to the taxing jurisdiction a log of all sales and use tax transactions.

42. The method claimed in claim 41, wherein a seller is given notice that a taxing jurisdiction is studying its log of all sales and use tax transactions.

43. The method claimed in claim 41, further including step of: reporting

IX.   EVIDENCE APPENDIX

There is no additional evidence to submit.

X. RELATED PROCEEDING APPENDIX

A. A copy of the Board of Appeals June 10, 2005, decision in U.S. Patent Application Serial No. 09/634,041 entitled "METHOD FOR COLLECTING SALES AND/OR USE TAXES THAT ARE MADE VIA THE INTERNET AND AND/OR CATALOG" follows in the next pages:

B. U.S. Patent Application Serial No.: 09/634,040 entitled "A METHOD FOR OBTAINING SECURE RECEIPTS FOR SALES AND/OR USE TAXES THAT ARE MADE VIA THE INTERNET AND/OR CATALOG" is currently being appealed to the Board of Appeals.